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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,669	08/27/2001	Jens Petersen	60117.000004	2508

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10/07/2005

EXAMINER
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AZPURU, CARLOS A

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/938,669

Applicant(s)

PETERSEN, JENS

Examiner

Carlos A. Azpuru

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 27-42 and 44-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-30, 33-42 and 44-48 is/are rejected.
- 7) ☒ Claim(s) 31 and 32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/26/2005
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_

### DETAILED ACTION

The petition decision withdrawing allowance in favor of a request for continued prosecution on 06/27/2005 is noted. An information disclosure statement was filed on 07/26/2005.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 27-30, 33-40, 44-48 are rejected under 35 U.S.C. 102(b) as being anticipated by RU 2127129 (RU'129).

RU'129 disclose a polyacrylamide gel polymer at 1.0 – 8.0 % formed from the polymerization of acrylamide and methylene-bis-acrylamide (see Abstract). Water content is between 92-99% (see page 2). Therefore, the same hydrogel is being claimed. Limitations such as viscosity, intended use of the hydrogel, and elastic module are all inherent properties of the identical polymeric hydrogel set out by RU'129. The instant claims are anticipated by RU'129.

Claims 27-30, 33-42, 44-48 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0 727 232 (EP'232).

EP'232 discloses a polyacrylamide gel with content of 2-20% and viscosity of 15,000 – 75,000 cps (see col. 4, lines 34-38). The gel is formed from polymerization of acylamide and methylenebisacrylamide (see col. 10, line 46.). The compositions are subjected to electron beam irradiation, gamma irradiation or autoclave, and are therefore pyrogen free (see col, 9, lines 1-5) Limitations such as intended use of the hydrogel, and elastic module are all inherent properties of the identical polymeric hydrogel set out by EP'232. The instant claims are anticipated by EP'232.

Claims 27, 28, 30, 33-40, 44-48 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2114578 (GB'578).

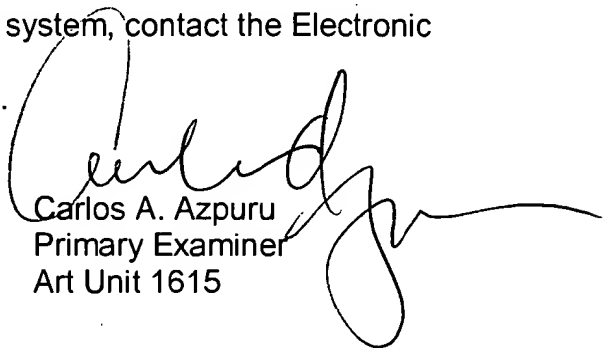
GB'578 disclose a polyacrylamide gel with 3-28 % content and 72-97% solution (see Abstract). This solution is usually saline (see page 1, lines 57-60). Limitations such as viscosity, intended use of the hydrogel, and elastic module are all inherent properties of the identical polymeric hydrogel set out by GB'578. The instant claims are anticipated by GB'578.

Claims 31 and 32 are objected to as dependent upon a rejected base claim.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos A. Azpuru whose telephone number is (571) 272-0588. The examiner can normally be reached on Tu-Fri, 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Carlos A. Azpuru  
Primary Examiner  
Art Unit 1615

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